

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN**

YAACOV APELBAUM, a New York resident,
and XRVISION, LTD., a New York corporation,

Plaintiffs,

Case No. 2:23-cv-11718

v.

Hon. Stephen J. Murphy, III
Hon. Anthony P. Patti

STEFANIE LAMBERT, a Michigan resident, and
THE LAW OFFICE OF STEFANIE L. LAMBERT,
PLLC, a Michigan professional limited liability company
and BILL BACHENBERG, a Pennsylvania resident,

Defendants.

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**PLAINTIFFS' RESPONSE TO THE COURT'S
SHOW CAUSE ORDER OF FEBRUARY 16, 2024**

On February 16, 2024, the Court entered a show cause Order instructing the Plaintiffs to respond by February 23, 2024. (ECF 12). In its Order, the Court required Plaintiffs to demonstrate to the Court why their case should not be dismissed for failure to prosecute. *Id.* Plaintiffs' suit should not be dismissed because: Defendant Bachenberg was served with a summons and Complaint on October 2, 2023 (ECF 4); Defendant Bachenberg's counsel requested a 30-day extension (to November 22, 2023) (*see* explanation at ECF 7) on Defendant's responsive pleading; Plaintiffs' Counsel agreed to this as a matter of professional courtesy (*see id*); and Defendant Bachenberg filed his Answer on November 22, 2023. (ECF 9). On January 17, 2024, Michael J.

Smith (attorney for Defendant Bachenberg as well) contacted Plaintiffs' counsel and agreed to accept service on behalf of Stephanie Lambert and The Law Office of Stephanie Lambert, PLLC ("Lambert Defendants"), and requested until February 16, 2024 to file their Answer. *See Exhibit 1*, attached. Plaintiffs' counsel agreed to this request. *Id.* On February 16, 2024, an associate in Mr. Smith's office contacted Plaintiffs' counsel by phone and requested an additional month to file the Answer. *See Exhibit 2* and the Declaration of John C. Burns. Plaintiffs' counsel ultimately refused this request, but agreed to an extension until Friday, February 23, 2024, only. *Id.* On February 20, 2024, Plaintiffs' counsel sent email correspondence to counsel for the Defendants, offering his availability for a Rule 26(f) conference. *See Exhibit 3*, attached. At this juncture, Plaintiffs anticipate: that the Lambert Defendants will file their Answer on or before February 23, 2024; that the parties will confer pursuant to Rule 26(f) at some point during the next 10-14 calendar days; that the parties will submit their proposed (or a jointly proposed) scheduling order and discovery plan within 14 days of said conference (Fed. R. Civ. P. 26(f)(2)); and that discovery will ultimately commence relatively soon thereafter, subject of course to any guidance or requirements from the Court. In short, Plaintiffs submit that, at long last, the case is moving forward.

Plaintiffs ask the Court to accept this explanation as sufficient cause, and to spare their claims, and case, against all Defendants.

Dated: February 20, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on February 20, 2024, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Court using the Court's CM/ECF system, which will send notification to all counsel of record.

/s/ John C. Burns